

Representative Karianne Lisonbee proposes the following substitute bill:

OFFICE OF THE EDUCATION OMBUDSMAN

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates the Office of the Education Ombudsman.

Highlighted Provisions:

This bill:

- ▶ creates the Office of the Education Ombudsman (office) in the governor's office;
- ▶ requires the office to report to the Education Interim Committee;
- ▶ defines terms;
- ▶ establishes the duties of the office;
- ▶ enacts provisions governing liability and protected communications of the office;
- ▶ enacts provisions governing office confidentiality and privilege;
- ▶ amends provisions protecting certain records created or submitted to the office; and
- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 **53E-1-201**, as last amended by Laws of Utah 2021, Chapters 64, 251, and 351
27 **63G-2-305**, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373,
28 and 382

29 ENACTS:

- 30 **53E-10-801**, Utah Code Annotated 1953
- 31 **53E-10-802**, Utah Code Annotated 1953
- 32 **53E-10-803**, Utah Code Annotated 1953
- 33 **53E-10-804**, Utah Code Annotated 1953
- 34 **53E-10-805**, Utah Code Annotated 1953
- 35 **53E-10-806**, Utah Code Annotated 1953



37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **53E-1-201** is amended to read:

39 **53E-1-201. Reports to and action required of the Education Interim Committee.**

40 (1) In accordance with applicable provisions and Section **68-3-14**, the following
41 recurring reports are due to the Education Interim Committee:

42 (a) the report described in Section **9-22-109** by the STEM Action Center Board,
43 including the information described in Section **9-22-113** on the status of the computer science
44 initiative and Section **9-22-114** on the Computing Partnerships Grants Program;

45 (b) the prioritized list of data research described in Section **35A-14-302** and the report
46 on research described in Section **35A-14-304** by the Utah Data Research Center;

47 (c) the report described in Section **35A-15-303** by the State Board of Education on
48 preschool programs;

49 (d) the report described in Section **53B-1-402** by the Utah Board of Higher Education
50 on career and technical education issues and addressing workforce needs;

51 (e) the annual report of the Utah Board of Higher Education described in Section
52 **53B-1-402**;

53 (f) the reports described in Section **53B-28-401** by the Utah Board of Higher Education
54 regarding activities related to campus safety;

55 (g) the State Superintendent's Annual Report by the state board described in Section
56 **53E-1-203**;

57 (h) the annual report described in Section 53E-2-202 by the state board on the strategic
58 plan to improve student outcomes;

59 (i) the report described in Section 53E-8-204 by the state board on the Utah Schools for
60 the Deaf and the Blind;

61 (j) the report described in Section 53E-10-703 by the Utah Leading through Effective,
62 Actionable, and Dynamic Education director on research and other activities;

63 (k) the report described in Section 53F-4-203 by the state board and the independent
64 evaluator on an evaluation of early interactive reading software;

65 (l) the report described in Section 53F-4-407 by the state board on UPSTART;

66 (m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board
67 related to grants for professional learning and grants for an elementary teacher preparation
68 assessment; ~~and~~

69 (n) the report described in Section 53F-5-405 by the State Board of Education
70 regarding an evaluation of a partnership that receives a grant to improve educational outcomes
71 for students who are low income[-]; and

72 (o) the report described in Section 53E-10-806 by the education ombudsman.

73 (2) In accordance with applicable provisions and Section 68-3-14, the following
74 occasional reports are due to the Education Interim Committee:

75 (a) the report described in Section 35A-15-303 by the School Readiness Board by
76 November 30, 2020, on benchmarks for certain preschool programs;

77 (b) the report described in Section 53B-28-402 by the Utah Board of Higher Education
78 on or before the Education Interim Committee's November 2021 meeting;

79 (c) the reports described in Section 53E-3-520 by the state board regarding cost centers
80 and implementing activity based costing;

81 (d) if required, the report described in Section 53E-4-309 by the state board explaining
82 the reasons for changing the grade level specification for the administration of specific
83 assessments;

84 (e) if required, the report described in Section 53E-5-210 by the state board of an
85 adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

86 (f) in 2022 and in 2023, on or before November 30, the report described in Subsection
87 53E-10-309(7) related to the PRIME pilot program;

88 (g) the report described in Section 53E-10-702 by Utah Leading through Effective,
89 Actionable, and Dynamic Education;

90 (h) if required, the report described in Section 53F-2-513 by the state board evaluating
91 the effects of salary bonuses on the recruitment and retention of effective teachers in high
92 poverty schools;

93 (i) upon request, the report described in Section 53F-5-207 by the state board on the
94 Intergenerational Poverty Intervention Grants Program;

95 (j) the report described in Section 53F-5-210 by the state board on the Educational
96 Improvement Opportunities Outside of the Regular School Day Grant Program;

97 (k) the report described in Section 53G-7-503 by the state board regarding fees that
98 LEAs charge during the 2020-2021 school year;

99 (l) the reports described in Section 53G-11-304 by the state board regarding proposed
100 rules and results related to educator exit surveys;

101 (m) the report described in Section 62A-15-117 by the Division of Substance Abuse
102 and Mental Health, the State Board of Education, and the Department of Health regarding
103 recommendations related to Medicaid reimbursement for school-based health services; and

104 (n) the reports described in Section 63C-19-202 by the Higher Education Strategic
105 Planning Commission.

106 Section 2. Section 53E-10-801 is enacted to read:

107 **Part 8. Office of the Education Ombudsman**

108 **53E-10-801. Definitions.**

109 As used in this part:

110 (1) "Office" means the Office of the Education Ombudsman created in Section
111 53E-10-802.

112 (2) "Ombudsman" means the individual appointed under Section 53E-10-802.

113 Section 3. Section 53E-10-802 is enacted to read:

114 **53E-10-802. Office of the Education Ombudsman.**

115 (1) There is created in the governor's office the Office of the Education Ombudsman.

116 (2) The governor shall appoint, with advice and consent of the Senate, an individual
117 with a background and expertise in state and federal elementary and secondary education law
118 and policy to:

- 119 (a) serve as the ombudsman; and
- 120 (b) direct the office.
- 121 (3) An individual appointed as the ombudsman:
- 122 (a) is an exempt employee; and
- 123 (b) may be terminated by the governor without cause.
- 124 Section 4. Section **53E-10-803** is enacted to read:
- 125 **53E-10-803. Duties.**
- 126 (1) Subject to Subsection (2), the office shall:
- 127 (a) develop and maintain expertise in state and federal kindergarten, elementary, and
- 128 secondary education law;
- 129 (b) develop parental involvement materials, including instructional guides to inform
- 130 parents of:
- 131 (i) the core standards implemented in accordance with Section [53E-4-202](#);
- 132 (ii) a statewide assessment, as defined in Section [53E-4-301](#);
- 133 (iii) education governance and administration, including the respective roles of the
- 134 Legislature, state board, an LEA governing board, LEA administrators, school administrators,
- 135 and parents;
- 136 (iv) the requirements of Title 53, Chapter 4, Open and Public Meetings Act;
- 137 (v) a program or curriculum that, under a state law or a policy or rule, a parent has a
- 138 right to consent to before a student may participate in the program or receive the curriculum;
- 139 (vi) school discipline regulations and procedures as described in Title 53G, Chapter 8,
- 140 Discipline and Safety; and
- 141 (vii) resources to support parents in assisting with their student's education;
- 142 (c) provide information to students, parents, and members of the public regarding the
- 143 state's kindergarten, elementary, and secondary school system;
- 144 (d) facilitate the resolution of complaints made by parents, students, and, except as
- 145 provided in Subsection (2)(a)(ii), teachers with regard to the state's kindergarten, elementary,
- 146 and secondary education system; and
- 147 (e) refer complaints, if necessary, or individuals who need further assistance to
- 148 appropriate state and federal agencies or resources.
- 149 (2) The office may not:

150 (a) facilitate complaints concerning the following:
151 (i) an elected member of the state board or an LEA governing board;
152 (ii) an allegation or complaint in which the investigation or resolution of is governed
153 by Chapter 6, Education Professional Licensure; or
154 (iii) a complaint regarding an individualized education program or Section 504
155 accommodation plan; or

156 (b) respond to inquiries or complaints about:
157 (i) a private school;
158 (ii) a preschool;
159 (iii) a childcare center;
160 (iv) a public or private institution of higher education; or
161 (v) any other private organization, business, or entity.

162 (3) The office may not charge a fee.

163 Section 5. Section **53E-10-804** is enacted to read:

164 **53E-10-804. Liability for good faith performance -- Communications protected.**

165 (1) Neither the ombudsman nor an employee of the office is liable for good faith
166 performance of responsibilities under this part.

167 (2) (a) Neither the office nor an individual attorney employed by the office, if any, may
168 represent a person in a legal action that arises from or relates to a matter addressed in this part.

169 (b) An action by an attorney employed by the office, if any, does not create an
170 attorney-client relationship between the office or the office's attorney and a person.

171 (3) (a) No discriminatory, disciplinary, or retaliatory action may be taken against any
172 student, employee of an LEA, or an employee of the state board, for any communication made,
173 or information given or disclosed, to aid an employee of the office in carrying out the
174 employee's duties and responsibilities, unless the communication is made, or information is
175 given or disclosed, without good faith or maliciously.

176 (b) The provisions of Subsection (3)(a) do not prohibit an LEA or the state board from
177 supervising, disciplining, or terminating an employee for reasons other than those described in
178 Subsection (3)(a).

179 (4) (a) A communication by the ombudsman or an employee of the office, if reasonably
180 related to duties and responsibilities as described in this part, and done in good faith, are

181 privileged.

182 (b) The privilege created in Subsection (4)(a) is a defense to any action in libel or
183 slander.

184 Section 6. Section **53E-10-805** is enacted to read:

185 **53E-10-805. Confidentiality.**

186 (1) The office shall treat all matters, including the identities of parents, students,
187 complainants, and individuals from whom information is acquired, as confidential, except as
188 necessary to enable the office to perform the duties as described in this part.

189 (2) Upon receipt of information that by law is confidential or privileged, the office:

190 (a) shall maintain the confidentiality; and

191 (b) may not disclose or disseminate the information except as provided by applicable
192 state or federal law.

193 Section 7. Section **53E-10-806** is enacted to read:

194 **53E-10-806. Report.**

195 (1) No later than November 1, the ombudsman shall, in accordance with Section
196 68-3-14, report annually to the Education Interim Committee.

197 (2) The report shall include:

198 (a) by district and aggregated across the state:

199 (i) what services of the office have been requested and by whom without identifying
200 individual requestors; and

201 (ii) an accounting of the most frequent type of conflicts the office is asked to help
202 resolve;

203 (b) materials and trainings the office has created or conducted in the last year;

204 (c) recommendations to eliminate barriers and obstacles to meaningful parent and
205 community involvement in public education; and

206 (d) any other information requested by the Education Interim Committee.

207 Section 8. Section **63G-2-305** is amended to read:

208 **63G-2-305. Protected records.**

209 The following records are protected if properly classified by a governmental entity:

210 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
211 has provided the governmental entity with the information specified in Section 63G-2-309;

212 (2) commercial information or nonindividual financial information obtained from a
213 person if:

214 (a) disclosure of the information could reasonably be expected to result in unfair
215 competitive injury to the person submitting the information or would impair the ability of the
216 governmental entity to obtain necessary information in the future;

217 (b) the person submitting the information has a greater interest in prohibiting access
218 than the public in obtaining access; and

219 (c) the person submitting the information has provided the governmental entity with
220 the information specified in Section [63G-2-309](#);

221 (3) commercial or financial information acquired or prepared by a governmental entity
222 to the extent that disclosure would lead to financial speculations in currencies, securities, or
223 commodities that will interfere with a planned transaction by the governmental entity or cause
224 substantial financial injury to the governmental entity or state economy;

225 (4) records, the disclosure of which could cause commercial injury to, or confer a
226 competitive advantage upon a potential or actual competitor of, a commercial project entity as
227 defined in Subsection [11-13-103\(4\)](#);

228 (5) test questions and answers to be used in future license, certification, registration,
229 employment, or academic examinations;

230 (6) records, the disclosure of which would impair governmental procurement
231 proceedings or give an unfair advantage to any person proposing to enter into a contract or
232 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
233 Subsection (6) does not restrict the right of a person to have access to, after the contract or
234 grant has been awarded and signed by all parties:

235 (a) a bid, proposal, application, or other information submitted to or by a governmental
236 entity in response to:

237 (i) an invitation for bids;

238 (ii) a request for proposals;

239 (iii) a request for quotes;

240 (iv) a grant; or

241 (v) other similar document; or

242 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);

243 (7) information submitted to or by a governmental entity in response to a request for
244 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
245 the right of a person to have access to the information, after:

246 (a) a contract directly relating to the subject of the request for information has been
247 awarded and signed by all parties; or

248 (b) (i) a final determination is made not to enter into a contract that relates to the
249 subject of the request for information; and

250 (ii) at least two years have passed after the day on which the request for information is
251 issued;

252 (8) records that would identify real property or the appraisal or estimated value of real
253 or personal property, including intellectual property, under consideration for public acquisition
254 before any rights to the property are acquired unless:

255 (a) public interest in obtaining access to the information is greater than or equal to the
256 governmental entity's need to acquire the property on the best terms possible;

257 (b) the information has already been disclosed to persons not employed by or under a
258 duty of confidentiality to the entity;

259 (c) in the case of records that would identify property, potential sellers of the described
260 property have already learned of the governmental entity's plans to acquire the property;

261 (d) in the case of records that would identify the appraisal or estimated value of
262 property, the potential sellers have already learned of the governmental entity's estimated value
263 of the property; or

264 (e) the property under consideration for public acquisition is a single family residence
265 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
266 the property as required under Section [78B-6-505](#);

267 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
268 compensated transaction of real or personal property including intellectual property, which, if
269 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
270 of the subject property, unless:

271 (a) the public interest in access is greater than or equal to the interests in restricting
272 access, including the governmental entity's interest in maximizing the financial benefit of the
273 transaction; or

274 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
275 the value of the subject property have already been disclosed to persons not employed by or
276 under a duty of confidentiality to the entity;

277 (10) records created or maintained for civil, criminal, or administrative enforcement
278 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
279 release of the records:

280 (a) reasonably could be expected to interfere with investigations undertaken for
281 enforcement, discipline, licensing, certification, or registration purposes;

282 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
283 proceedings;

284 (c) would create a danger of depriving a person of a right to a fair trial or impartial
285 hearing;

286 (d) reasonably could be expected to disclose the identity of a source who is not
287 generally known outside of government and, in the case of a record compiled in the course of
288 an investigation, disclose information furnished by a source not generally known outside of
289 government if disclosure would compromise the source; or

290 (e) reasonably could be expected to disclose investigative or audit techniques,
291 procedures, policies, or orders not generally known outside of government if disclosure would
292 interfere with enforcement or audit efforts;

293 (11) records the disclosure of which would jeopardize the life or safety of an
294 individual;

295 (12) records the disclosure of which would jeopardize the security of governmental
296 property, governmental programs, or governmental recordkeeping systems from damage, theft,
297 or other appropriation or use contrary to law or public policy;

298 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
299 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
300 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

301 (14) records that, if disclosed, would reveal recommendations made to the Board of
302 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
303 Board of Pardons and Parole, or the Department of Human Services that are based on the
304 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's

305 jurisdiction;

306 (15) records and audit workpapers that identify audit, collection, and operational
307 procedures and methods used by the State Tax Commission, if disclosure would interfere with
308 audits or collections;

309 (16) records of a governmental audit agency relating to an ongoing or planned audit
310 until the final audit is released;

311 (17) records that are subject to the attorney client privilege;

312 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
313 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
314 quasi-judicial, or administrative proceeding;

315 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
316 from a member of the Legislature; and

317 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
318 legislative action or policy may not be classified as protected under this section; and

319 (b) (i) an internal communication that is part of the deliberative process in connection
320 with the preparation of legislation between:

321 (A) members of a legislative body;

322 (B) a member of a legislative body and a member of the legislative body's staff; or

323 (C) members of a legislative body's staff; and

324 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
325 legislative action or policy may not be classified as protected under this section;

326 (20) (a) records in the custody or control of the Office of Legislative Research and
327 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
328 legislation or contemplated course of action before the legislator has elected to support the
329 legislation or course of action, or made the legislation or course of action public; and

330 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
331 Office of Legislative Research and General Counsel is a public document unless a legislator
332 asks that the records requesting the legislation be maintained as protected records until such
333 time as the legislator elects to make the legislation or course of action public;

334 (21) research requests from legislators to the Office of Legislative Research and
335 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared

336 in response to these requests;

337 (22) drafts, unless otherwise classified as public;

338 (23) records concerning a governmental entity's strategy about:

339 (a) collective bargaining; or

340 (b) imminent or pending litigation;

341 (24) records of investigations of loss occurrences and analyses of loss occurrences that
342 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
343 Uninsured Employers' Fund, or similar divisions in other governmental entities;

344 (25) records, other than personnel evaluations, that contain a personal recommendation
345 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
346 personal privacy, or disclosure is not in the public interest;

347 (26) records that reveal the location of historic, prehistoric, paleontological, or
348 biological resources that if known would jeopardize the security of those resources or of
349 valuable historic, scientific, educational, or cultural information;

350 (27) records of independent state agencies if the disclosure of the records would
351 conflict with the fiduciary obligations of the agency;

352 (28) records of an institution within the state system of higher education defined in
353 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,
354 retention decisions, and promotions, which could be properly discussed in a meeting closed in
355 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
356 the final decisions about tenure, appointments, retention, promotions, or those students
357 admitted, may not be classified as protected under this section;

358 (29) records of the governor's office, including budget recommendations, legislative
359 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
360 policies or contemplated courses of action before the governor has implemented or rejected
361 those policies or courses of action or made them public;

362 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
363 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
364 recommendations in these areas;

365 (31) records provided by the United States or by a government entity outside the state
366 that are given to the governmental entity with a requirement that they be managed as protected

367 records if the providing entity certifies that the record would not be subject to public disclosure
368 if retained by it;

369 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
370 public body except as provided in Section 52-4-206;

371 (33) records that would reveal the contents of settlement negotiations but not including
372 final settlements or empirical data to the extent that they are not otherwise exempt from
373 disclosure;

374 (34) memoranda prepared by staff and used in the decision-making process by an
375 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
376 other body charged by law with performing a quasi-judicial function;

377 (35) records that would reveal negotiations regarding assistance or incentives offered
378 by or requested from a governmental entity for the purpose of encouraging a person to expand
379 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
380 person or place the governmental entity at a competitive disadvantage, but this section may not
381 be used to restrict access to a record evidencing a final contract;

382 (36) materials to which access must be limited for purposes of securing or maintaining
383 the governmental entity's proprietary protection of intellectual property rights including patents,
384 copyrights, and trade secrets;

385 (37) the name of a donor or a prospective donor to a governmental entity, including an
386 institution within the state system of higher education defined in Section 53B-1-102, and other
387 information concerning the donation that could reasonably be expected to reveal the identity of
388 the donor, provided that:

389 (a) the donor requests anonymity in writing;

390 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
391 classified protected by the governmental entity under this Subsection (37); and

392 (c) except for an institution within the state system of higher education defined in
393 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
394 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
395 over the donor, a member of the donor's immediate family, or any entity owned or controlled
396 by the donor or the donor's immediate family;

397 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and

398 73-18-13;

399 (39) a notification of workers' compensation insurance coverage described in Section

400 34A-2-205;

401 (40) (a) the following records of an institution within the state system of higher
402 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
403 or received by or on behalf of faculty, staff, employees, or students of the institution:

404 (i) unpublished lecture notes;

405 (ii) unpublished notes, data, and information:

406 (A) relating to research; and

407 (B) of:

408 (I) the institution within the state system of higher education defined in Section

409 53B-1-102; or

410 (II) a sponsor of sponsored research;

411 (iii) unpublished manuscripts;

412 (iv) creative works in process;

413 (v) scholarly correspondence; and

414 (vi) confidential information contained in research proposals;

415 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public

416 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

417 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

418 (41) (a) records in the custody or control of the Office of the Legislative Auditor

419 General that would reveal the name of a particular legislator who requests a legislative audit

420 prior to the date that audit is completed and made public; and

421 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the

422 Office of the Legislative Auditor General is a public document unless the legislator asks that

423 the records in the custody or control of the Office of the Legislative Auditor General that would

424 reveal the name of a particular legislator who requests a legislative audit be maintained as

425 protected records until the audit is completed and made public;

426 (42) records that provide detail as to the location of an explosive, including a map or

427 other document that indicates the location of:

428 (a) a production facility; or

- 429 (b) a magazine;
- 430 (43) information:
- 431 (a) contained in the statewide database of the Division of Aging and Adult Services
- 432 created by Section [62A-3-311.1](#); or
- 433 (b) received or maintained in relation to the Identity Theft Reporting Information
- 434 System (IRIS) established under Section [67-5-22](#);
- 435 (44) information contained in the Licensing Information System described in Title
- 436 62A, Chapter 4a, Child and Family Services;
- 437 (45) information regarding National Guard operations or activities in support of the
- 438 National Guard's federal mission;
- 439 (46) records provided by any pawn or secondhand business to a law enforcement
- 440 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
- 441 Secondhand Merchandise Transaction Information Act;
- 442 (47) information regarding food security, risk, and vulnerability assessments performed
- 443 by the Department of Agriculture and Food;
- 444 (48) except to the extent that the record is exempt from this chapter pursuant to Section
- 445 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
- 446 prepared or maintained by the Division of Emergency Management, and the disclosure of
- 447 which would jeopardize:
- 448 (a) the safety of the general public; or
- 449 (b) the security of:
- 450 (i) governmental property;
- 451 (ii) governmental programs; or
- 452 (iii) the property of a private person who provides the Division of Emergency
- 453 Management information;
- 454 (49) records of the Department of Agriculture and Food that provides for the
- 455 identification, tracing, or control of livestock diseases, including any program established under
- 456 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
- 457 of Animal Disease;
- 458 (50) as provided in Section [26-39-501](#):
- 459 (a) information or records held by the Department of Health related to a complaint

460 regarding a child care program or residential child care which the department is unable to
461 substantiate; and

462 (b) information or records related to a complaint received by the Department of Health
463 from an anonymous complainant regarding a child care program or residential child care;

464 (51) unless otherwise classified as public under Section 63G-2-301 and except as
465 provided under Section 41-1a-116, an individual's home address, home telephone number, or
466 personal mobile phone number, if:

467 (a) the individual is required to provide the information in order to comply with a law,
468 ordinance, rule, or order of a government entity; and

469 (b) the subject of the record has a reasonable expectation that this information will be
470 kept confidential due to:

471 (i) the nature of the law, ordinance, rule, or order; and

472 (ii) the individual complying with the law, ordinance, rule, or order;

473 (52) the portion of the following documents that contains a candidate's residential or
474 mailing address, if the candidate provides to the filing officer another address or phone number
475 where the candidate may be contacted:

476 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
477 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,
478 20A-9-408.5, 20A-9-502, or 20A-9-601;

479 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or

480 (c) a notice of intent to gather signatures for candidacy, described in Section
481 20A-9-408;

482 (53) the name, home address, work addresses, and telephone numbers of an individual
483 that is engaged in, or that provides goods or services for, medical or scientific research that is:

484 (a) conducted within the state system of higher education, as defined in Section
485 53B-1-102; and

486 (b) conducted using animals;

487 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
488 Evaluation Commission concerning an individual commissioner's vote on whether or not to
489 recommend that the voters retain a judge including information disclosed under Subsection
490 78A-12-203(5)(e);

491 (55) information collected and a report prepared by the Judicial Performance
492 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter
493 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
494 the information or report;

495 (56) records provided or received by the Public Lands Policy Coordinating Office in
496 furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

497 (57) information requested by and provided to the 911 Division under Section
498 63H-7a-302;

499 (58) in accordance with Section 73-10-33:

500 (a) a management plan for a water conveyance facility in the possession of the Division
501 of Water Resources or the Board of Water Resources; or

502 (b) an outline of an emergency response plan in possession of the state or a county or
503 municipality;

504 (59) the following records in the custody or control of the Office of Inspector General
505 of Medicaid Services, created in Section 63A-13-201:

506 (a) records that would disclose information relating to allegations of personal
507 misconduct, gross mismanagement, or illegal activity of a person if the information or
508 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
509 through other documents or evidence, and the records relating to the allegation are not relied
510 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
511 report or final audit report;

512 (b) records and audit workpapers to the extent they would disclose the identity of a
513 person who, during the course of an investigation or audit, communicated the existence of any
514 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
515 regulation adopted under the laws of this state, a political subdivision of the state, or any
516 recognized entity of the United States, if the information was disclosed on the condition that
517 the identity of the person be protected;

518 (c) before the time that an investigation or audit is completed and the final
519 investigation or final audit report is released, records or drafts circulated to a person who is not
520 an employee or head of a governmental entity for the person's response or information;

521 (d) records that would disclose an outline or part of any investigation, audit survey

522 plan, or audit program; or

523 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
524 investigation or audit;

525 (60) records that reveal methods used by the Office of Inspector General of Medicaid
526 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
527 abuse;

528 (61) information provided to the Department of Health or the Division of Occupational
529 and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections
530 58-68-304(3) and (4);

531 (62) a record described in Section 63G-12-210;

532 (63) captured plate data that is obtained through an automatic license plate reader
533 system used by a governmental entity as authorized in Section 41-6a-2003;

534 (64) any record in the custody of the Utah Office for Victims of Crime relating to a
535 victim, including:

536 (a) a victim's application or request for benefits;

537 (b) a victim's receipt or denial of benefits; and

538 (c) any administrative notes or records made or created for the purpose of, or used to,
539 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
540 Reparations Fund;

541 (65) an audio or video recording created by a body-worn camera, as that term is
542 defined in Section 77-7a-103, that records sound or images inside a hospital or health care
543 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care
544 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
545 that term is defined in Section 62A-2-101, except for recordings that:

546 (a) depict the commission of an alleged crime;

547 (b) record any encounter between a law enforcement officer and a person that results in
548 death or bodily injury, or includes an instance when an officer fires a weapon;

549 (c) record any encounter that is the subject of a complaint or a legal proceeding against
550 a law enforcement officer or law enforcement agency;

551 (d) contain an officer involved critical incident as defined in Subsection
552 76-2-408(1)(f); or

- 553 (e) have been requested for reclassification as a public record by a subject or
554 authorized agent of a subject featured in the recording;
- 555 (66) a record pertaining to the search process for a president of an institution of higher
556 education described in Section 53B-2-102, except for application materials for a publicly
557 announced finalist;
- 558 (67) an audio recording that is:
- 559 (a) produced by an audio recording device that is used in conjunction with a device or
560 piece of equipment designed or intended for resuscitating an individual or for treating an
561 individual with a life-threatening condition;
- 562 (b) produced during an emergency event when an individual employed to provide law
563 enforcement, fire protection, paramedic, emergency medical, or other first responder service:
- 564 (i) is responding to an individual needing resuscitation or with a life-threatening
565 condition; and
- 566 (ii) uses a device or piece of equipment designed or intended for resuscitating an
567 individual or for treating an individual with a life-threatening condition; and
- 568 (c) intended and used for purposes of training emergency responders how to improve
569 their response to an emergency situation;
- 570 (68) records submitted by or prepared in relation to an applicant seeking a
571 recommendation by the Research and General Counsel Subcommittee, the Budget
572 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an
573 employment position with the Legislature;
- 574 (69) work papers as defined in Section 31A-2-204;
- 575 (70) a record made available to Adult Protective Services or a law enforcement agency
576 under Section 61-1-206;
- 577 (71) a record submitted to the Insurance Department in accordance with Section
578 31A-37-201;
- 579 (72) a record described in Section 31A-37-503;
- 580 (73) any record created by the Division of Occupational and Professional Licensing as
581 a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);
- 582 (74) a record described in Section 72-16-306 that relates to the reporting of an injury
583 involving an amusement ride;

584 (75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual
585 on a political petition, or on a request to withdraw a signature from a political petition,
586 including a petition or request described in the following titles:

- 587 (a) Title 10, Utah Municipal Code;
- 588 (b) Title 17, Counties;
- 589 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;
- 590 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and
- 591 (e) Title 20A, Election Code;

592 (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in
593 a voter registration record;

594 (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a
595 signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a
596 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

597 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part
598 5, Victims Guidelines for Prosecutors Act;

599 (79) a record submitted to the Insurance Department under Subsection
600 31A-48-103(1)(b);

601 (80) personal information, as defined in Section 63G-26-102, to the extent disclosure is
602 prohibited under Section 63G-26-103;

603 (81) (a) an image taken of an individual during the process of booking the individual
604 into jail, unless:

605 (i) the individual is convicted of a criminal offense based upon the conduct for which
606 the individual was incarcerated at the time the image was taken;

607 (ii) a law enforcement agency releases or disseminates the image after determining
608 that:

609 (A) the individual is a fugitive or an imminent threat to an individual or to public
610 safety; and

611 (B) releasing or disseminating the image will assist in apprehending the individual or
612 reducing or eliminating the threat; or

613 (iii) a judge orders the release or dissemination of the image based on a finding that the
614 release or dissemination is in furtherance of a legitimate law enforcement interest[-];

615 (82) a record:
616 (a) concerning an interstate claim to the use of waters in the Colorado River system;
617 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
618 representative from another state or the federal government as provided in Section
619 [63M-14-205](#); and
620 (c) the disclosure of which would:
621 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
622 Colorado River system;
623 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
624 negotiate the best terms and conditions regarding the use of water in the Colorado River
625 system; or
626 (iii) give an advantage to another state or to the federal government in negotiations
627 regarding the use of water in the Colorado River system; [~~and~~]
628 (83) any part of an application described in Section [63N-16-201](#) that the Governor's
629 Office of Economic Opportunity determines is nonpublic, confidential information that if
630 disclosed would result in actual economic harm to the applicant, but this Subsection (83) may
631 not be used to restrict access to a record evidencing a final contract or approval decision[~~;~~]; and
632 (84) a record generated in the facilitation of a resolution of a complaint in accordance
633 with Section [53E-10-803](#).